

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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YONG XIONG HE,

Plaintiff,

ECF CASE

- versus -

No. 1:19-cv-05907-PKC-CLP

**CHINA NEW STAR RESTAURANT, INC.,
WAI SHUN CHAN, WAI LEUNG CHAN,
WAI WEN CHAN, PO KUM CHAN,
RONALD CHAN, ROY CHAN, JIAZHEN
LIAO, CHING MAN HONG CHAN, JOSEPH
CHAN, and ELTON CHAN,**

Defendants.

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**NOTICE OF MOTION FOR AN ORDER (1) SETTING A COURT HEARING
(OR, IN THE ALTERNATIVE, PERMITTING DISCLOSURE), AND (2)
REQUIRING THE TURNOVER OF FUNDS AND SERVICE OF A CPLR
§6219 STATEMENT, INCLUDING BY, IF APPROPRIATE, HOLDING
INDIVIDUAL DEFENDANT(S) OR GARNISHEE(S) IN CONTEMPT**

PLEASE TAKE NOTICE that based upon the attached Memorandum of Law, the Third Declaration of Michael L. Winston and Exhibits attached thereto, Plaintiff Yong Xiong He, by and through his attorneys, Gladstein, Reif & Meginniss, LLP, will move this Court, before the Honorable Pamela K. Chen, at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, as soon as counsel can be heard, for an order, pursuant to Rule 64 of the Federal Rules of Civil Procedure and Sections 6214, 6219, and 6220 of the New York Civil Practice Law and Rules (“CPLR”), to: (1) schedule a Court hearing (or, in the alternative, permitting Plaintiff to proceed with discovery under CPLR §6220), in order to uncover who (among garnishee Kristy Ling Feng Li, “Original Defendants” Wai Leung Chan and Wai Shun Chan, and garnishees/defendants Po Kum Chan and Elton Chan) received proceeds under the September 17, 2019 mortgage secured by the property located at 7814 16th Avenue, Brooklyn, New York 11214 (the “Mortgage Proceeds” of the “Li Mortgage”)

after the issuance of this Court's October 22, 2020 Order (the "10/22/20 Order") or owes debts under the Li Mortgage that matured following the issuance of the 10/22/20 Order and why these amounts have not been turned over to the Sheriff of the City of New York City (the "Sheriff") in accord with this Court Order, dated February 18, 2021 ("2/18/21 Order"), and if appropriate, holding in contempt whoever has improperly withheld such Proceeds from the Sheriff or interfered with the requirements or operation of the 2/18/21 Order; (2) in accord with CPLR § 6214, requiring that the Mortgage Proceeds received by Wai Leung Chan, Wai Shun Chan, Po Kum Chan or Elton Chan prior to the issuance of the 10/22/20 Order be turned over to the Sheriff; and (3) holding Kristy Ling Feng Li in contempt for failing to serve a CPLR § 6219 statement, as required by the 2/18/21 Order.

PLEASE TAKE FURTHER NOTICE that answering and reply papers, if any, must be served by such date that the Court may order, *see* Individual Practices and Rules of Judge P. Chen, ¶3.C, and that any hearing date will be established by order of the Court. Plaintiff will serve a copy of any such Court orders on non-party garnishee Kristy Ling Feng Li and the Sheriff by overnight mail or by such other manner that the Court directs.

Dated: April 9, 2021

Respectfully submitted,

/s/ Michael L. Winston

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